

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

DYSON, INC.,

Plaintiff,

v.

MAYTAG CORPORATION,

Defendant.

Civil Action No. 06-CV-6576 (DC)

NOTICE OF MOTION FOR A PRELIMINARY INJUNCTION

PLEASE TAKE NOTICE that, upon the Memorandum of Law In Support of Plaintiff Dyson, Inc.'s Motion for a Preliminary Injunction, the Affidavit of Gregory W. Fortsch, the Declarations of Gordon Thom, Susan H. Goldsmith, and Michael B. Mazis, and the Complaint filed August 31, 2006, the undersigned will move this Court at the Courthouse, 500 Pearl Street, New York, New York, 10007, at the court's discretion or as soon thereafter as counsel may be heard, for an Order, pursuant to Rule 65(a) of the Federal Rules of Civil Procedure, preliminarily enjoining Defendant Maytag Corporation, its officers, agents, servants, employees and attorneys, and all persons in active concert or participation with them who receive actual notice of this Order, from stating or communicating, directly or indirectly, by words or visual images, in any advertising, packaging, promotional materials or promotional activities for the Hoover Fusion™ ("Fusion") or Maytag Legacy™ ("Legacy") upright residential vacuum cleaners that:

- (1) The Fusion or Legacy provide "No Loss of Suction," or words of substantially similar meaning or import; and
- (2) The Fusion or Legacy have been shown by testing under the ASTM F558 standard to have constant suction, or no loss of

suction up to 10 ounces of dirt or dust.

PLEASE TAKE FURTHER NOTICE that, answering papers and reply papers thereto shall be served in accordance with the further Order of this Court.

Dated: New York, New York
September 7, 2006

Respectfully submitted,

s/ Steven F. Reich
Steven F. Reich, Esq. (SFR0723)
Christopher A. Cole, Esq.
Gregory W. Fortsch, Esq.
MANATT PHELPS & PHILLIPS, LLP
7 Times Square
New York, New York 10036
Telephone: (212) 790-4500
Facsimile: (212) 790-4545
SReich@manatt.com
CCole@manatt.com
GFortsch@manatt.com

Attorneys for Plaintiff Dyson, Inc.

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PRELIMINARY INJUNCTION ORDER

For good cause shown, and based upon the facts and arguments set forth in the Plaintiff Dyson, Inc.'s motion for a preliminary injunction, memorandum of law in support of that motion, and declarations and affidavit submitted therewith, it is hereby ORDERED, that pending final judgment in this action, Defendant Maytag Corporation, its officers, agents, servants, employees and attorneys, and all persons in active concert or participation with them who receive actual notice of this Order, are enjoined from stating or communicating, directly or indirectly, by words or visual images, in any advertising, packaging, promotional materials or promotional activities for the Hoover Fusion™ ("Fusion") or Maytag Legacy™ ("Legacy") upright residential vacuum cleaners that:

- (1) The Fusion or Legacy provide "No Loss of Suction," or words of substantially similar meaning or import; and
- (2) The Fusion or Legacy have been shown by testing under the ASTM F558 standard to have constant suction, or no loss of suction up to 10 ounces of dirt or dust.

IT IS FURTHER ORDERED, that within 30 days of entry of this Order, Defendant Maytag Corporation, its officers, agents, servants, employees and attorneys, and all persons in active concert or participation with them who receive actual notice of this Order, shall:

- (1) Remove or cover by sticker on all packaging for the Fusion and Legacy upright residential vacuum cleaners any words or visual images that state or otherwise communicate that the Fusion and Legacy upright residential vacuum cleaners have “No Loss Suction;” and
- (2) Remove all displays, including in-store displays, that state or otherwise communicate that the Fusion and Legacy upright residential vacuum cleaners have “No Loss Suction.”

IT IS FURTHER ORDERED, that within 45 days of entry of this Order, Defendant Maytag Corporation shall file with the Court and serve on counsel for Plaintiff a sworn written statement, setting forth in detail and including exhibits demonstrating the manner and form in which Defendant has complied with this Order.

Dated:
New York, New York

United States District Judge